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August 6, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Communication
Broadband PCS C and F Block Installment
Payment Restructuring; WT Docket No. 97-82

Dear Mr. Caton:

NextWave Telecom Inc.

Yesterday representatives of NextWave Telecom Inc. ("NextWave" or "company") met with Jon Garcia, Sande Taxali, Jerome Fowlkes, David Shiffrin, and Peter Kaufman of the Commission to discuss issues in the above-referenced proceeding. The views expressed by NextWave's representatives were previously presented to the Commission in the company's written filings or are included in the attached material which was distributed by NextWave at the meeting.

In accordance with Section 1.1206 of the Commission's rules, an original and two copies of this filing are being submitted to you today. Please direct any questions concerning this matter to me or Janice Obuchowski at 202-347-2771.

Sincerely,

Michael R. Wack
NextWave Telecom Inc.

Attachment

1101 Pennsylvania Avenue, N.W.
Suite 805
Washington, D.C. 20004
Tel. 202.347.2771
Fax. 202.347.2822
www: nextwavetel.com

cc w/o attach: Jon Garcia
Sande Taxali
Jerome Fowlkes
David Shiffrin
Peter Kaufman

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**NextWave's C-block Restructuring
Presentation
to the
Federal Communications Commission**

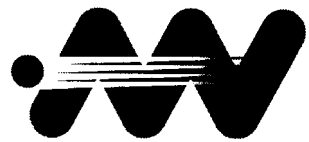
Washington, D.C.

August 5, 1997



NextWave Overview

-
- Control Group personal investment of \$14M - a very substantial part of control Group assets and the largest investment by any Control Group among all DEs
 - Approximately \$600M+ private placement with over 90 small and large investors (many individual investors and pension funds)
 - Experienced management team
 - Carriers' carrier strategy with 36+ billion minutes pre-sold
 - \$1.5 billion in firmly committed vendor financing
 - Can bring meaningful competition to the market through the nationwide footprint to serve up to 163 million Americans



Network Build-out Activities

- Over \$80 million invested in the build-out of seven regional PCS networks
- Four markets 70%-75% complete
 - Boston, Orlando, San Diego, San Antonio
- Four markets 35%-40% complete
 - New York, Los Angeles, Washington, Baltimore
- Four markets 15%-20% complete
 - Houston, Cleveland, Tampa, others
- Three trial systems operational in Washington, D.C., San Diego and San Antonio
- Phase One: 55 Million POPs in 1998
- Phase Two: 95 Million POPs in 1999



NextWave's Public Market Financing Efforts

- NextWave has made every effort to access the public capital markets
 - registration statements (S-1) filed with the SEC in 6/96 for a concurrent \$500 million equity and high yield offering with Merrill Lynch, Lehman Brothers, Bear Stearns, Prudential Securities, CIBC and ING Barings as the underwriting team
 - registration statements (S-1) filed with the SEC in 2/97 for a concurrent \$500 million equity and high yield offering with Smith Barney, Lehman Brothers, Bear Stearns, Prudential Securities, CIBC and ING Barings as the underwriting team
 - Reg S equity offering in 5/97 in conjunction with ING Barings and Prudential Securities



Wireless Paradigm Shifts

- Passage of Telecom Reform Act of 1996
- Interconnection costs slashed
- Bundling
- Branding
- Differentiation through AIN/Enhanced Services
- CDMA Commercialized
- Wireless local loop and Area-Based Services will capture a greater share of the wireline market
- WTO Agreement removing international barriers

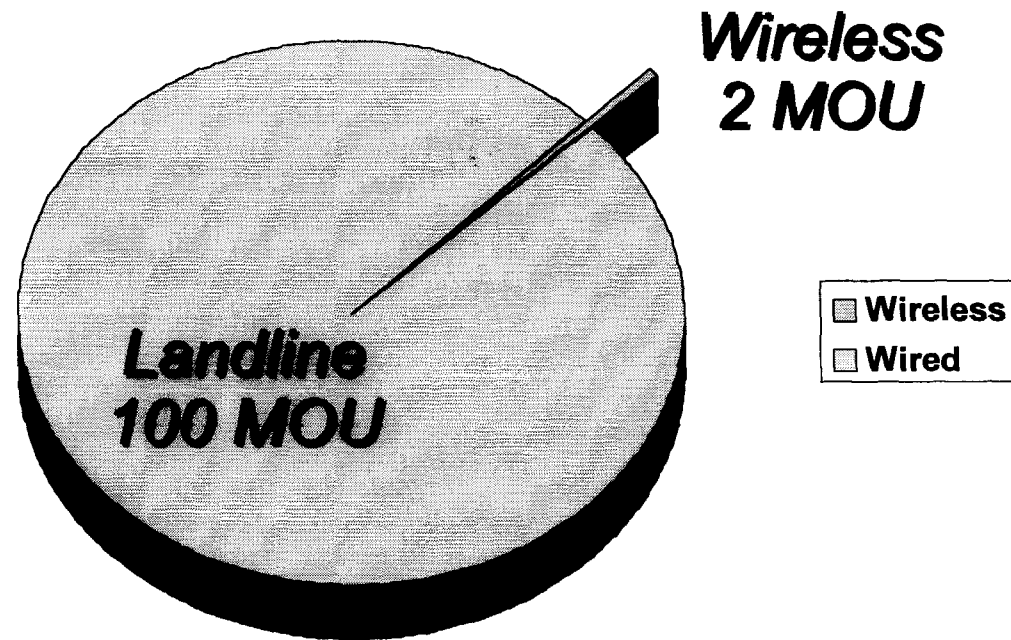


Critical Drivers of Success

- Establish National Footprint via Affiliation Agreements & Strategic Partnering
- Carriers' Carrier Business Strategy
- Select Optimal Technology
- Raise Capital
- Vendor Financing
- Hire Experienced Wireless Talent
- Execute



But the True Measure of Penetration is MOUs



***For every wireless minute consumed,
100 landline minutes are consumed***



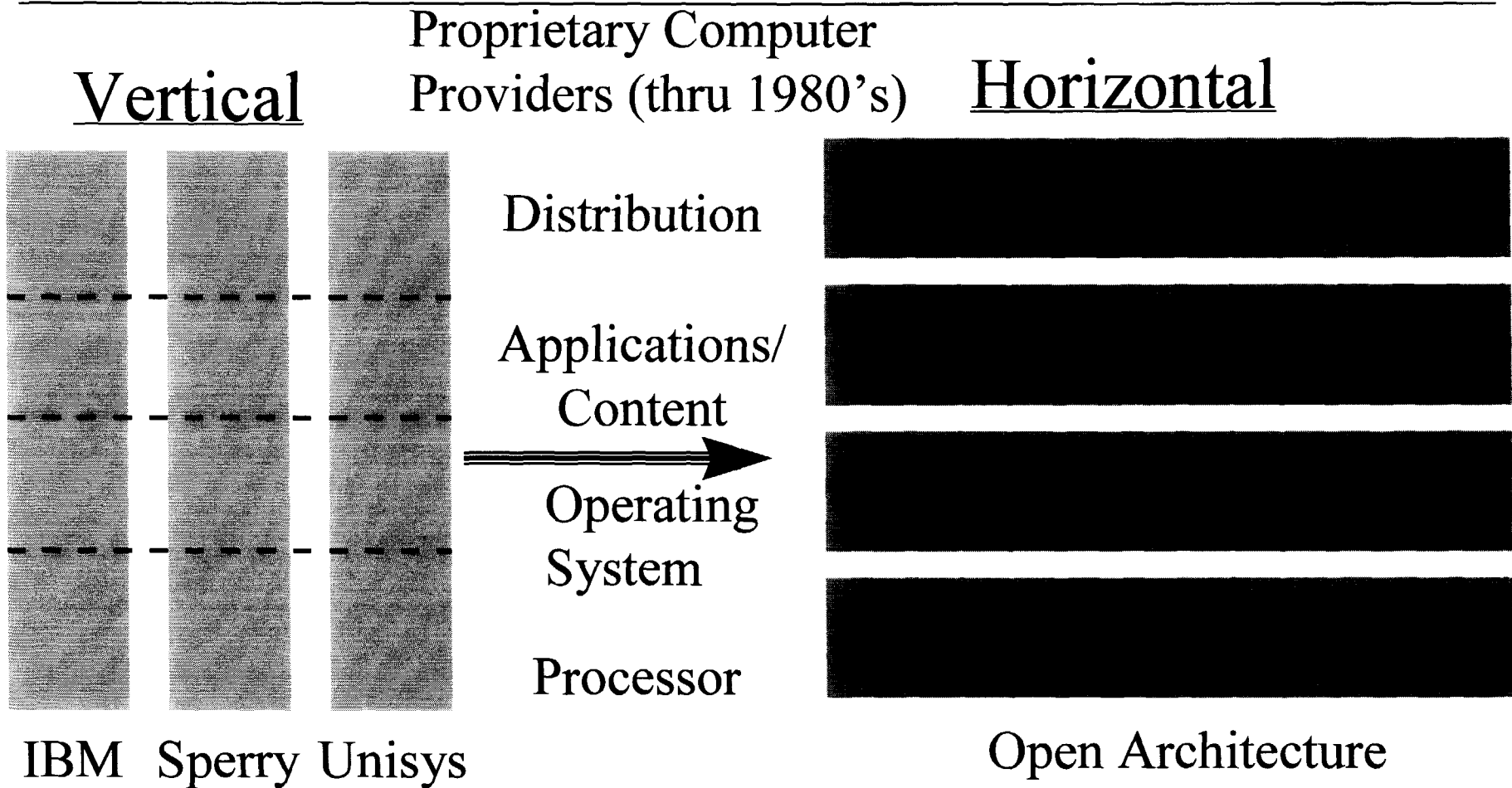
Tremendous Growth Ahead

- Wireless MOU growth from 34 billion to 500-1000 billion MOU (1500%-2500%)
- Subscriber growth from 50 million to 110-130 million (over 100%)

“Technology Flashpoint”



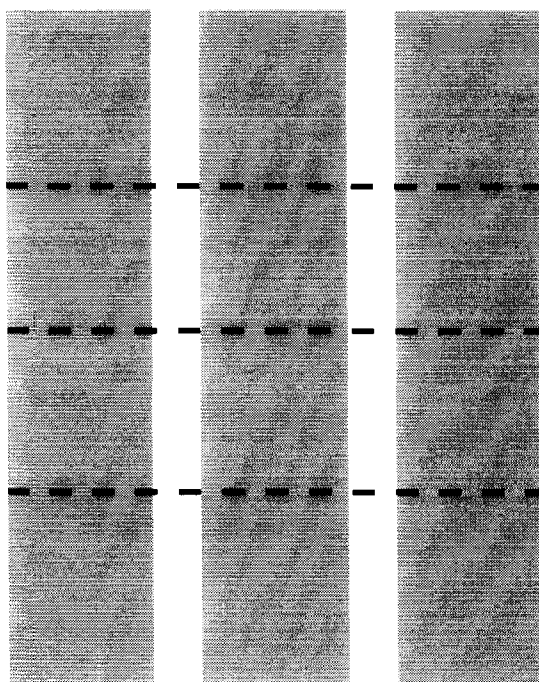
The Computer Industry is the Harbinger for Telecom





10X Forces are reshaping Telecom...

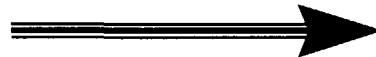
Vertical



1 2 3
Telecom Providers

Distribution

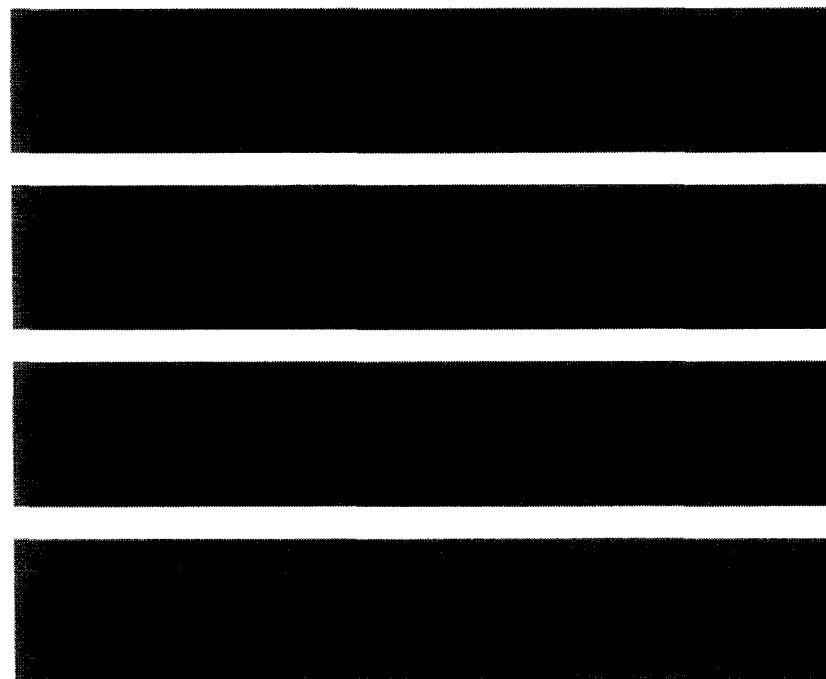
Applications/
Content



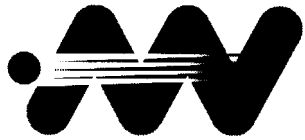
Enhanced
Services

Network

Horizontal



...& new value will be created



Treatment of Resellers

- Wholesale rates not friendly to distributors
- New services offered to carrier's own retail channel before given to reseller
- Zero service differentiation provided
 - “*” codes frowned upon
- No Interconnection
- No customer service & customized directory services



Result of Carrier Treatment of Resellers

- Very little margin
- No corporate identity
- No product or service differentiation
- Early stages of reselling does not cover overhead
- 5-year sunset clause on resale



NextWave's Carriers' Carrier Strategy

- Create a national network for the provision of wireless products and services to existing and emerging branded telecom retailers
 - Number Ownership by Reseller
 - No Channel Conflict at Retail/Brand Level
- Support resellers in their differentiation strategies
- Open network architecture with the network elements priced ala carte (e.g., resellers can tailor services)
- Price & margin protection



NextWave's Carriers' Carrier Strategy (Cont'd)

- Reseller's can implement their own Enhanced Services Platform
- Attractive interconnection arrangements
- Business risk equally spread between NextWave and reseller's shareholders
- Reseller's can invest more in sales & marketing
- NextWave provides a competition multiplier effect



C-block Promise

-
- C-block licensees collectively possess comparable talent to national carriers
 - C-block licensees formed their companies based on the assumption that the Commission desires new competition in the form of small businesses and entrepreneurs in the wireless market
 - NextWave has made the fifth largest payment to the FCC among all the bidders in all PCS auctions
 - NextWave's business plan and business strategy is viable and financable
 - C-block licensees can execute on their business plans given a reasonable opportunity by the Commission

After having accomplished so much to date, C-block licensees, who have raised and paid the FCC over \$1 billion, the US tax payers and the Commission deserve a constructive and positive restructuring outcome



C-block Promise (Cont'd)

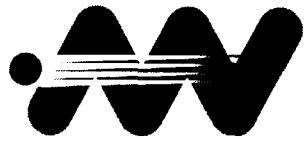
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- At the time of C-block auction, major investment banks believed that the C-block licensees are financable given the right management team, a viable business strategy and favorable market conditions
 - Dramatic changes in market conditions since 5/96
 - We need more time to raise the required financing through a better cycle for wireless capital markets
 - *NextWave has already been penalized:*
 - time-value of \$474 million down-payment
 - over \$80 million invested in the build-out of the PCS network at risk today

Anti-competitive behavior of the incumbent wireless operators is the primary cause of C-block's delayed access to the capital markets



Time is of the Essence

-
- Pocket bankruptcy froze the worldwide financial markets for the C-block
 - FCC issuance of PN on restructuring put all forms of financing for C-block on hold until the restructuring process is completed
 - C-block has been stigmatized (press has often misrepresented our proposal to the FCC and the C-block story)
 - Statements made by the investment bankers to the FCC have made it very difficult for the C-block to raise any meaningful financing prior to the completion of restructuring process
 - Without the Commission's intervention, the C-block perception primarily created by the incumbents will be turned into reality



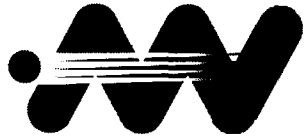
Restructuring Options

- Do Nothing
 - most C-block licensees will be in a great deal of trouble and ultimately in bankruptcy
- Forfeiture of Licenses
 - will force a large number of C-block licensees into bankruptcy
- Reauction
 - as described
- Restructure
 - as described



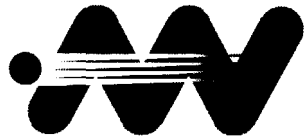
Restructure

-
- Minimal restructuring would not do the job (e.g., annualized interest payments)
 - Restructuring within 10 years is fair, reasonable, financable and defensible
 - six year PIK
 - ten year maturity
 - 75% of licensees' free cash flow paid to the government to catch up with the current payment terms
 - Some level of subordination by the FCC
 - Accelerated build-out
 - *Qualifying individuals will not be able to sell any shares or otherwise derive an economic benefit from their interest in the company until the government is repaid*



Reauction

-
- Could delay competition unless it happens within 9 months
 - The government could lose a substantial amount of the face value of the C-block obligation
 - Huge loss of investments already made in the build-out of the C-block markets
 - Reauction participation should be limited to DEs
 - Credit the downpayments towards participation in an all cash payment reauction with a reasonable penalty
 - C-block is not currently in default so there is no need for a large penalty
 - 30% of the C-block net price per POP as the minimum bid amount



C-block Can Prevail

- C-block licensees need a reasonable level of restructuring to continue with their fund raising until the public markets improve

Let the American dream stay alive
for the DEs, the US taxpayers and
the government

mission. In the city of Troy, Mich., an ordinance not only calls for new entrants to pay a percentage of gross revenue as a franchise fee but also attempts to define universal service and standards of interconnection to the incumbent's network.

A FAIR FARE

No one questions the rights of local governments to be compensated for the use of their streets, poles, or conduits. However, service providers see some charges as discriminatory (especially those that are not also levied on incumbent telcos) and unreasonable (especially those based on revenue).

"When we say we want nondiscriminatory treatment, we're not looking for a free ride," says Meredith Harris, vice president and assistant general counsel at TCG. The issue is that franchise fees should relate to the cities' costs for administering the rights-of-way, CLECs say. But many local governments are using the model for cable franchises, under which they rake up to 10 percent of the provider's gross revenue, regardless of the cost of service delivery. Some are even tossing around the idea of a 15 to 25 percent gross revenue fee.

In addition, cities are tacking on one-time charges for filing applications for rights-of-way. Austin, Texas, tried to get \$5,000 from every company applying for a franchise. That fee has been reduced to \$850, says Gwen Rowling, director of business and government relations at Westel (Austin, Texas), a CLEC that is trying to set up shop in Texas.

The FCC is now considering preemption of some municipalities' rules. The commission is also working through the issues with its Local and State Government Advisory Committee. Some writing is already on the wall. "The establishment of hundreds or even thousands

of municipal telecommunications regulatory bodies would be inconsistent with the procompetitive, deregulatory national policy framework embodied in the 1996 Telecom Act," PCC chief of staff Blair Levin said in a speech last October. In two rulings last year, the FCC decreed that local authority extends only to rights-of-way supervision, according to Levin.

Municipalities say the issue isn't just about money. "The issue of protecting the rights-of-way is not just wanting to find new revenue sources," says Marilyn Praisner, a member of the FCC's advisory committee and council president of Montgomery County, Md.

Not only does it cost the municipality to acquire, pave, and maintain the rights-of-way, but cities and counties also must consider if public safety is endangered, if existing utilities in those passages will be disturbed, and if new entrants layering facilities in those rights-of-way will crowd the space and affect other users, Praisner says.

In Montgomery County, only one company has been awarded a franchise. Several others have attempted to get in but complain that they are being stalled. TCG says that although it is still trying to get a franchise in Montgomery County, it has reworked its network plans to run through nearby northern Virginia. "Some-

times we have to go around," says Hockemeier.

New local service competitors have an unlikely ally in their dispute with the local governments. It's the incumbent telcos, which are worried that they too will suddenly be slapped with costly new fees in the interest of not discriminating among carriers. Although some cities have tried to placate the incumbents, saying fees will never be levied on them, it's not likely regional laws that treat incumbents differently from new players will withstand a challenge against provisions of the Telecom Act. "There's no way that they can promise that," McDermott says. —GAIL LAWYER

The Debt of a Salesman

NextWave's money woes may end the PCS resale business before it starts

IT'S ONE OF THOSE existential questions: How can a resale market develop for wireless phone service where no one is eager to wholesale? A year ago everyone hoped to find the answer in NextWave Telecom Inc. (San Diego), the first personal communications services (PCS) licensee dedicated to a wholesale business strategy. But NextWave has been doing anything but ramping up network operations. Instead, the company has been busy slashing its workforce and seeking relief from the Federal Communications Commission on its \$4 billion payments for spectrum licenses.

Help could be on the way in the next few weeks. The FCC is considering the extension of payment schedules for NextWave and other winners in its C block round of auctions for broadband PCS licenses. The FCC began considering this action after receiving requests



from several cash-strapped C block licensees—as well as those in the subsequent F block. This extension could

help free up cash for building out NextWave's network, and it could help assuage hesitant investors.

ILLUSTRATIONS BY DAVID SUTER

BRIEFS

The Paper Trail

A funny thing happened on the way to the courthouse—at least that's the way some competitive local exchange carriers see it. Apparently some press releases from SBC Communications Inc. supporting the Telecommunications Act of 1996 have "suspiciously" disappeared from the company's World Wide Web archives, following the company's



early July challenge of the constitutionality of the act's provision preventing SBC and other Bell companies from providing long-distance service until local competition exists. At an Association for Local Telecommunications Services (ALTS, Washington, D.C.) press briefing, representatives from local competitors Brooks Fiber Properties Inc. (St. Louis) and ICG Communications Inc. (Englewood, Colo.) say that when they were doing research to prepare for the trade group's filing as an intervenor on behalf of the government in the SBC lawsuit, they couldn't find some press releases they thought were sent out by the Bell company. SBC says the competitors are sadly mistaken. "We have not pulled anything from [the Web site] related to the act," says an SBC spokesperson. "We didn't issue a release specific to the act." The spokesperson says there was an SBC release regarding the debut of its long-distance cellular services that referred to the act's passage. SBC did issue a press release on Feb. 8, 1996, but the release can't be found in SBC or subsidiary Southwestern Bell's Web archives.

But the FCC's action may be too little, too late. Some say future growth of the wireless resale market is bleak. One huge problem for NextWave is its high cost structure. "No one seems to have the appetite to satisfy it," says Mark Lowenstein, vice president of wireless/mobile communications at The Yankee Group (Boston).

NextWave, which has asked the FCC to extend the payback period for licenses from 10 to 20 years, says it will survive even if the payment schedule remains unchanged. Others are keeping the faith. "Don't count NextWave out," says Max Kleinman, a consultant with Andersen Consulting LLP (Chicago). "But NextWave's setbacks are severely affecting people's ability to do wireless resale." The next few weeks will go a long way toward determining NextWave's long-term prospects—and maybe the prospects for wireless resale in general.

Not so many months ago, NextWave was a darling of the wireless industry. Backed with startup financing from Japanese consumer electronics giant Sony Corp. and Korea Electric Power Corp., among others, NextWave had committed more than \$4 billion for PCS licenses in 63 markets and planned to offer capacity on its network solely to resellers. Lining up for NextWave's facilities were service providers like MCI Communications Corp., Cincinnati Bell Telephone Co., and Excel Communications Inc. (Dallas). Me-too wireless wholesalers were said to be waiting in the shadows, hanging their entry strategies on NextWave's rise or fall.

In fact, the business plans of hundreds of poten-

tial resellers depend on the fate of NextWave, says Larry Day, senior vice president of finance for Cellexis International Inc. (Phoenix), a reseller of cellular service that plans to become a NextWave customer. "A company like NextWave is a breath of fresh air," he says.

Resellers today rely mostly on cellular network operators, for which wholesale is an adjunct to their retail businesses. These operators tend to charge resellers 30 to 35 percent below average retail airtime rates, according to The Strategis Group (Washington, D.C.), a market research firm. Pure wholesalers like NextWave

opened. PowerTel Inc. (West Point, Ga.), a PCS operator that holds licenses in about two dozen markets, says it isn't going after the resale market because it's a low-margin business. Still, Day of Cellexis believes that PCS operators like PowerTel that secured their licenses from the earlier A and B block auctions may become more receptive to resale in a year or so, after their retail businesses are established.

This lag could give NextWave the breathing room it needs. Most of the resellers that struck agreements with NextWave now have resale agreements with cellular carriers, says David

Some experts expect the increasing number of PCS networks to open up the wireless resale market, but that hasn't happened so far.

would be expected to provide margins that are at least 5 to 10 percent better, analysts say. Just as important, pure wholesalers wouldn't compete with their resellers, the way retail operators do.

WHO NEEDS IT?

Today, resale accounts for only 2 percent of the total U.S. wireless voice market of more than \$23 billion. One reason is that the cellular market, until recently, was structured as a duopoly in each city or town. There has been enough business from retail customers to keep the cellular service providers happy.

PCS has changed the competitive atmosphere on the consumer side of the wireless business, and some expect the increasing number of networks to open up the resale market. So far, however, that hasn't hap-

Gusky, president of the National Wireless Resellers Association. MCI has committed to buy 10 billion minutes from NextWave over 10 years. In the meantime, MCI already provides wireless service in more than 40 markets through agreements with cellular carriers.

NextWave now says it will begin technical trials, which were originally scheduled for the spring, after the FCC's decision on payment plans. A year ago, it had planned to offer service commercially in several markets by the end of this year—with buildup in the remainder of its markets by the end of 1998. Now, the company is querying the 30 or so resellers that have awarded it contracts and letters of intent to find out what markets those customers want to see up and running first.

—PAUL RUBIN

PHOTOGRAPH BY RYO KOSAKI/PHOTONICA

"Less than one year ago the FCC issued rules that were